

Commonwealth of Massachusetts  
HAMPDEN SUPERIOR COURT  
Case Summary  
Civil DocketHDCV2005-00677  
Behaylo v Top-Flite Golf Company

File Date	07/08/2005	Status	Disposed: transferred to other court (dtrans)		
Status Date	08/03/2005	Session	B - Civil B - CtRm 5		
Origin	1	Case Type	B22 - Employment Discrimination		
Lead Case		Track	F		
			05 CV 30178-MAP		
Service	10/06/2005	Answer	12/05/2005	Rule 12/19/20	12/05/2005
Rule 15	12/05/2005	Discovery	05/04/2006	Rule 56	06/03/2006
Final PTC	07/03/2006	Disposition	09/01/2006	Jury Trial	Yes

## PARTIES

<b>Plaintiff</b> Michael Behaylo Active 07/08/2005	<b>Private Counsel 069660</b> Maurice M Cahillane Egan Flanagan & Cohen 67 Market Street PO Box 9035 Springfield, MA 01102-9035 Phone: 413-737-0260 Fax: 413-737-0121 Active 07/08/2005 Notify
<b>Defendant</b> Top-Flite Golf Company Served: 07/14/2005 Served (answr pending) 07/18/2005	<b>Private Counsel 405760</b> Jay M Presser Skoler Abbott & Presser PC 1 Monarch Place Suite 2000 Springfield, MA 01144 Phone: 413-737-4753 Fax: 413-787-1941 Active 08/03/2005 Notify

## ENTRIES

Date	Paper	Text
07/08/2005	1.0	Complaint & civil action cover sheet filed
07/08/2005		Origin 1, Type B22, Track F.
07/18/2005	2.0	SERVICE RETURNED: Top-Flite Golf Company(Defendant).
08/03/2005	3.0	Petition for Removal -- Case REMOVED this date to US District Court of Massachusetts.

## EVENTS



A TRUE COPY  
OF THE DOCKET MINUTES:  
IN WITNESS WHEREOF, I hereunto  
set my hand, and have caused the seal  
of the Superior Court for the County  
of Hampden to be affixed on this  
15<sup>th</sup> day of, August, 2005  
Karen Spindler  
Deputy Assistant Clerk

TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED:  
 TORT -  CONTRACT -  EQUITABLE RELIEF - OTHER

**COMMONWEALTH OF MASSACHUSETTS**

**HAMPDEN, ss.**

**HAMPDEN COUNTY  
SUPERIOR COURT  
FILED**

**JUL 18 2005**

**SUPERIOR COURT  
DEPARTMENT OF THE TRIAL COURT  
CIVIL ACTION**  
NO. 05-677

MICHAEL BEHAYLO

*Marie G. Bragga*  
CLERK-MAGISTRATE

**PLAINTIFF(S)**

**V.**

**SUMMONS**

TOP-FLITE GOLF COMPANY, DEFENDANT(S)

To the above named defendant: Top-Flite Golf Company

Maurice M. Cahillane, Esq.

67 Market St., Springfield, MA, plaintiff's attorney, whose address is \_\_\_\_\_, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Springfield either before service upon the plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse, Esq., at Springfield the 14th day of July in the year of our Lord two thousand five.

*Marie G. Bragga*  
Clerk / Magistrate

NOTICE TO DEFENDANT -- You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's office.

**NOTES:**

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

**A true copy:**

**Attest:**

*Karen Spindles*  
Deputy Assistant Clerk



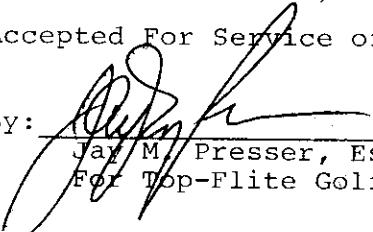
2

**PROOF OF SERVICE OF PROCESS**

I hereby certify and return that on 7/14, 2005, I served a copy of the within summons, together with a copy of the original complaint, in this action, upon the within named defendant, in the following manner (See Mass. R. Civ. P. 4 (d)(1-5):

Accepted For Service of Process

By:

  
Jay M. Presser, Esq.  
For Top-Flite Golf Company

Dated: July 15, 2005

**N.B. TO PROCESS SERVER:**

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS  
BOX ON THE ORIGINAL AND ON THE COPY SERVED ON DEFENDANT.

(  
(  
(  
)  
, 2005)  
)



A. TRUE COPY:

Attest:

Assistant Clerk

CLERKS OFFICE  
SUPERIOR COURT  
HAMPDEN COUNTY

2005 JUL 18 A 11:27

CIVIL ACTION  
COVER SHEET

Docket No.(s)

05- 677

Trial Court of Massachusetts  
Superior Court Department

County: Hampden

## PLAINTIFF(S)

MICHAEL BEHAYLO

## DEFENDANT(S)

TOP-FLITE GOLF COMPANY

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE  
 Maurice M. Cahillane, Esq.  
 Egan, Flanagan and Cohen, P.C.  
 67 Market Street  
 Springfield, MA 01103 Tel: 413-737-0260  
 Board of Bar Overseers Number: 069660

ATTORNEY (if known)  
 Jay M. Presser, Esq.  
 Skoler, Abbott & Presser  
 One Monarch Place  
 Springfield, MA 01144

## Origin code and track Destination

Place an x in one box only:

1. F01 Original Complaint       4. F04 District Court Appeal c.231, s. 97 & 104 (After trial)  
 2. F02 Removal to Sup.Ct. C.231, s.104 (Before trial) (F)       5. F05 Reactivated after rescript; relief from judgment/Order  
 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)       6. E10 Summary Process Appeal (X)

## TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.      TYPE OF ACTION (specify)      TRACK      IS THIS A JURY CASE?  
 B22      Employment Discrimination      (    F  )      (    X  ) Yes      (        ) No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this

## TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses .....	HAMPDEN COUNTY	\$ .....
2. Total Doctor expenses .....	SUPERIOR COURT	\$ .....
3. Total chiropractic expenses .....	FILED	\$ .....
4. Total physical therapy expenses .....	JUL - 8 2005	\$ .....
5. Total other expenses (describe) .....		\$ .....

*Maurice M. Cahillane*  
CLERK-MAGISTRATE

B. Documented lost wages and compensation to date .....

Subtotal \$ .....

C. Documented property damages to date .....

\$ .....

D. Reasonably anticipated future medical and hospital expenses .....

\$ .....

E. Reasonably anticipated lost wages .....

\$ .....

F. Other documented items of damages (describe) .....

\$ .....

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

\$ .....

TOTAL \$ .....

## CONTRACT CLAIMS

Provide a detailed description of claim(s):

TOTAL \$ .....

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

*Maurice Cahillane*

DATE: July 7, 2005

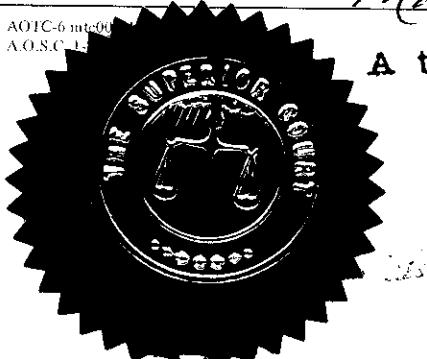
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A.O.S.C. 1

A true copy:

12074-050132/94062.wpc

Attest:

*Karen Spindler*  
Deputy Assistant Clerk



COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF THE TRIAL COURT

HAMPDEN, ss

Superior Court Division  
Civil Action No. 05-677

MICHAEL BEHAYLO, )  
 Plaintiff )  
 )  
 vs. )  
 )  
 TOP-FLITE GOLF COMPANY )  
 Defendants )

HAMPDEN SUPERIOR COURT  
 FILED  
 JUL -8 2005  
 Marie G. Chasse  
 CLERK-MAGISTRATE

**COMPLAINT AND DEMAND FOR JURY TRIAL**

1. The plaintiff, Michael Behaylo, is a natural person residing at 8 Westernview Road, Holyoke, Hampden County, Massachusetts.
2. The defendant, Top-Flite Golf Company, is a Delaware corporation with a principal place of business at 425 Meadow Street, Chicopee, Hampden County, Massachusetts.
3. The plaintiff was employed by the defendant, Top-Flite Golf Company, as a senior cost accountant for five years until his termination on April 15, 2004. The plaintiff was informed that he was being laid off as a result of a downsizing of the work force. He was 48 years old at the time. The plaintiff performed his job well and within his employer's expectations.
4. The plaintiff later discovered that he had been replaced by an individual in her 20's.
5. At the same time, the four oldest employees in plaintiff's department were also let go.

No. of Pgs. One  
 Fee Paid - \$ 240 - Cash   
 Surcharge Paid - \$ 15 - Cash   
 Security Fee - Paid - \$ 20 - Cash   
 Received by MFB

6. Subsequently, the CEO of Top-Flite, Robert Penicka, made a public statement to the effect that he had created a younger management team by design.
7. The plaintiff was terminated because of his age.

**COUNT I**

8. The plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 7.
9. The defendant's actions violated 29 U.S.C., Section 626 (the Age Discrimination in Employment Act) by terminating the plaintiff because of his age. The actions of the defendant were intentional and willful.

WHEREFORE, the plaintiff prays that:

- a. That judgment be entered in his favor;
- b. That he be reinstated and awarded full compensatory damages;
- c. That he be awarded liquidated damages;
- d. That he be awarded attorneys fees, interest and costs.
- e. That the court grant such other relief as it deems just.

**COUNT II**

10. The plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 9.
11. Defendants violated General Laws Chapter 151B, Section 4, by terminating the plaintiff because of his age. The actions of the defendant were intentional and willful.

WHEREFORE, the plaintiff prays that:

- a. That judgment be entered in his favor;

- b. That he be reinstated and awarded full compensatory damages;
- c. That he be awarded multiple damages;
- d. That he be awarded attorneys fees, interest and costs.
- e. That the court grant such other relief as it deems just.

**PLAINTIFF DEMANDS A TRIAL BY JURY.**

THE PLAINTIFF, MICHAEL BEHAYLO  
BY HIS ATTORNEY

Dated: 7/18/05

Maurice Cahillane

Maurice M. Cahillane, Esq., BBO# 069660  
EGAN, FLANAGAN AND COHEN, P.C.  
67 Market Street - Post Office Box 9035  
Springfield, MA 01102  
(413) 737-0260; Fax: (413) 737-0121

11638-040587\92665.wpd



**A true copy:**

**Attest:**

Karen Spindler  
Deputy Assistant Clerk